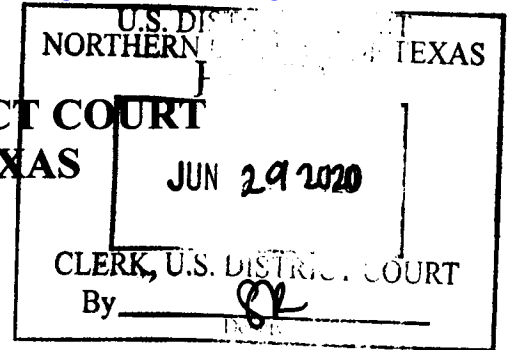


**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF TEXAS  
DALLAS DIVISION**



Civil Action No. \_\_\_\_\_

WINSTON WESLEY NOLES

, Plaintiff,

v.

KEITH SHORT  
POLICE OFFICER, ROYSE CITY, TX  
in his individual capacity

, Defendant.

**3 - 20 CV 1 7 2 1 - M**

**COMPLAINT AND JURY DEMAND**

**A. PLAINTIFF INFORMATION**

Plaintiff WINSTON WESLEY NOLES is a citizen of THE UNITED STATES  
who presently resides at the following address:

ADDRESS: 11452 County Road B, Manzanola, Colorado 81058  
TELEPHONE: 214-874-5605  
EMAIL: WinstonOttoNoles@gmail.com

**B. DEFENDANT(S) INFORMATION**

Defendant KEITH SHORT is a citizen of THE UNITED STATES  
who may presently reside at:

Currently Elected Mayor, McLendon-Chisholm, TX with offices at:

1371 West FM 550 McLendon-Chisholm, TX 75032

Also Currently employed as a Sunnyvale, Tx Police Officer with offices at:

127 Collins Road Sunnyvale, TX 75182

At the time of this incident, employed by Royse City Police Department with offices at:

100 W Main St, Royse City, TX 75189

IN THE STATE OF COLORADO, UNITED STATES OF AMERICA

## **C. JURISDICTION**

Jurisdiction is asserted pursuant to following statutory authorities:

28 U.S.C. §§ 1331, 1343 and 1391

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42 U.S.C. § 1988

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42 U.S.C. § 1983: FIRST, FIRST, FOURTH AND FOURTEENTH AMENDMENTS

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## **D. STATEMENT OF CLAIM(S)**

### **SUMMARY OF VIOLATIONS FOR WHICH RELIEF IS SOUGHT**

#### **FIRST CLAIM FOR RELIEF:**

42 U.S.C. § 1983

UNLAWFUL SEIZURE – WARRANTLESS SEIZURE OF ACTIVE CAMERA  
FOURTH AMENDMENT

#### **SECOND CLAIM FOR RELIEF:**

42 U.S.C. § 1983

FREE PRESS: PRIOR RESTRAINT – OBSTRUCT GATHERING CONTENT  
FIRST AMENDMENT

#### **THIRD CLAIM FOR RELIEF:**

42 U.S.C. § 1983

DUE PROCESS – PROPERTY DEPRIVATION, CONTENT DESTRUCTION  
SUBSTANTIVE, PROCEDURAL VIA THE FOURTEENTH AMENDMENT

#### **FOURTH CLAIM FOR RELIEF:**

42 U.S.C. § 1983

REDRESS OF GRIEVANCES

FIRST AMENDMENT;

DUE PROCESS – EVIDENCE TAMPERING

SUBSTANTIVE, PROCEDURAL VIA THE FOURTEENTH AMENDMENT

#### **FIFTH CLAIM FOR RELIEF:**

42 U.S.C. § 1983

RETALIATION FOR SPEECH

FIRST AMENDMENT

FIRST CLAIM FOR RELIEF: UNLAWFUL SEIZURE - FOURTH AMENDMENT  
SECOND CLAIM FOR RELIEF: PRIOR RESTRAINT - FIRST AMENDMENT  
THIRD CLAIM FOR RELIEF: DUE PROCESS - FOURTEENTH AMENDMENT  
FOURTH CLAIM FOR RELIEF: REDRESS/DUE PROCESS – FIRST AND FOURTEENTH  
AMENDMENTS  
FIFTH CLAIM FOR RELIEF: RETALIATION FOR SPEECH - FIRST AMENDMENT

## COMPLAINT AND JURY DEMAND

Plaintiff, Winston Wesley Noles, Pro Se, respectfully alleges for his **Complaint** and **Jury Demand** as follows:

## INTRODUCTION / STATEMENTS OF FACT

1. On 2018DEC18 at about noon, Plaintiff, Winston Noles, was standing on a public sidewalk in Royse City, TX displaying various political placards to include: “SHIT IS FUCKED UP AND STUFF”, “GIVE ME LIBERTY OR GIVE ME DEATH”, “WELL, THE SYSTEM ISN'T GOING TO FUCK ITSELF”, and “FREE FOOD: POTATOES AND CARROTS”<sup>1</sup>. (First three shown below):



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1 A few days prior to this incident, Plaintiff was arrested in neighboring Hawk Cove, TX for donating an excess of potatoes and carrots to the needy “without a license”. This offer message was inscribed on the reverse of one of these placards.

2. Hundreds of vehicles passed by Plaintiff over a period of about 15 minutes.
3. During Plaintiff's peaceful demonstration, Plaintiff periodically swapped between the three above messages being displayed.
4. During Plaintiff's peaceful demonstration, several passersby honked, smiled, waved, laughed, or otherwise expressed statements or gestures commonly understood in North American culture to be supportive of Plaintiff's viewpoints.
5. At no time during Plaintiff's demonstration did any private person ever approach Plaintiff to express displeasure with- objection to- or to complain about- his message.
6. About 13 minutes into Plaintiff's demonstration, Royse City Police officer Johnie Clark arrives on scene by parking at the stop sign in the right-most lane of traffic without activating any overhead emergency lighting and approached Plaintiff.
7. At the time officer Clark arrived, the message Plaintiff was displaying was "GIVE ME LIBERTY OR GIVE ME DEATH".
8. It turns out Clark was one of three Royse City Police Officers were dispatched to Plaintiff's location based on a complaint from a civilian of a man holding a sign with profanities.
9. Specifically, the caller reported a sign reading "SHIT IS FUCKED UP AND STUFF".
10. In addition to Clark, Defendant Short and SGT Dial also dispatched.
11. While responding to Plaintiff's location, because the officers had activated their dash-mounted camera devices, officer's comments leading up to, during and following the incident were memorialized.
12. Officers Dial and Short laughed at hearing the report of a man holding a sign reading "SHIT IS FUCKED UP AND STUFF".
13. They joked: "Maybe we should send him over to Austin! Hahaha!".

14. SGT Dial and Defendant Short arrived shortly afterwards.
15. Neither Dial nor Short activated their overhead emergency lights when they parked their patrol vehicles in the left turn lane of the frontage road behind Plaintiff.
16. When Defendant Short pulled up, he exited his vehicle and walked up to Plaintiff's recording device, bent over slightly and examined the devices active recording screen for a long time.
17. During this time, SGT Dial attempted to verbally coerce Plaintiff to consent to a search of his other signs.
18. SGT Dial then made multiple advances attempting to forcibly seize Plaintiff's signs from his possession to which Plaintiff objected.
19. Failing this, SGT Dial punched Plaintiff's signs out of his hands and kicked them toward the street.<sup>2</sup>
20. Officer Clark was so shocked at this surprise act of violence that he jumped dangerously backwards nearly landing in the busy street behind him.

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<sup>2</sup> The forceful taking of a person's property without their consent while armed with a deadly weapon is the felony crime of ROBBERY. SGT Dial was never charged with any crimes stemming from his unlawful violent behavior.



21. At this point, Defendant Short intentionally reached out with his right arm, grasped the riser pole of Plaintiff's tripod, and deliberately rotated the device about 90 degrees pointing the camera lens away from the scene, as depicted in the following frames excised from SGT Dial's dash-mounted camera:



*1: SHORT GRABS TRIPOD*

*2: SHORT LIFTS /  
ROTATES TRIPOD*

*3: DEVICE DROPPED  
~90 DEGREES OFF  
ORIGINAL POSITION*

22. Defendant Short was, at the time of this incident, a fully uniformed and armed law enforcement officer employed by the Royse City, Tx, Police Department.
23. At all times relevant to this action, Defendant Short was acting under full color of law in his capacity as a law enforcement officer employed by Royse City, Tx.
24. Since the time of this incident, Defendant Short has hopped over to a nearby community where he is now employed as a law enforcement officer by the Sunnyvale, Tx, Police Department.

25. In the past 15 years, Defendant Short has hopped between agencies four times with an average length of employment per agency of merely 2.9 years (see table below):

KEITH SHORT LAW ENFORCEMENT EXPERIENCE					
#	AGENCY	START	END	DURATION	HIGHEST RANK
1	HUNT CO. SHERIFF'S OFFICE	02/11/06	05/04/08	2Y, 3M	RESERVE OFFICER
2	CADDO MILLS POLICE DEPT.	03/23/06	09/10/07	1Y, 6M	POLICE OFFICER
3	HUNT CO. SHERIFF'S OFFICE	05/05/08	08/06/11	3Y, 4M	DEPUTY
4	ROYSE CITY POLICE DEPT.	08/08/11	05/29/20	8Y, 10M	CORPORAL
5	SUNNYVALE POLICE DEPT.	06/01/20	06/21/20	0Y, 1M	SERGEANT
	TOTAL CIVILIAN LAW ENFORCEMENT	02/11/06	06/21/20	14Y, 5M	SERGEANT

NUMBER OF AGENCIES: 5  
 TOTAL DURATION: 172 MONTHS  
 AVERAGE AGENCY EMPLOYMENT: 2.9 2 YEARS, 11.4 MONTHS

26. Defendant Keith Short, in addition to being an Agency-Hopping Police Officer, is also the Mayor of a nearby podunk<sup>3</sup> community: McClenden-Chisolm, Tx.
27. Disturbingly, as the Mayor of a Texas Municipality, Defendant Short is the Chief Policy Making Authority and the Officer In Chief managing and supervising an entire law enforcement agency.
28. Based on such extensive experience, Defendant Short has no excuse to have tampered with Plaintiff's evidence as described throughout this complaint.
29. Any search or seizure without a warrant specifying the place to be searched and the article to be seized ordered by a judicial officer upon a finding of probable cause as supported by affirmation or oath is presumed to be unlawful and in violation of the Fourth Amendment to the Constitution for the United States.
30. Any tampering with or preventing the collection of content intended for publication without the Due Processes of Law is presumed to be unlawful and in

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3 Podunk: Po·dunk | \ 'pō-, dənjk \ noun: a small, unimportant, and isolated town  
 source: <https://www.merriam-webster.com/dictionary/Podunk>



violation of the First, Fourth and Fourteenth Amendments to the Constitution for the United States.

31. Any tampering with or preventing the collection of evidence of criminal activity or police brutality without the Due Processes of Law is presumed to be unlawful and in violation of the First, Fourth and Fourteenth Amendments to the Constitution for the United States.
32. Any official retaliation for the content or viewpoints of the messages expressed by a person to which an official objects is presumed to be unlawful and in violation of the First Amendment to the Constitution for the United States.
33. Citizens recording law enforcement in performance of their public duties from public places is a VERY WELL ESTABLISHED RIGHT.
34. Plaintiff is a self-syndicated journalist who regularly broadcasts and/or publishes stories and interactions with law enforcement and government officials.
35. Plaintiff's stories are of great public concern as they contain content about police abuse and corruption.
36. Defendant Short KNEW he did not have the authority under the circumstances to seize control of Plaintiff's recording equipment.
37. Defendant Short KNEW he did not have the authority under the circumstances to reposition Plaintiff's recording device away from the actions being committed by his fellow officers.
38. Defendant Short's conduct grasping and repositioning Plaintiff's equipment constituted a seizure in violation of the Fourth Amendment to the Constitution for the United States of America giving rise to Plaintiff's FIRST CLAIM FOR RELIEF.
39. Defendant Short's conduct repositioning Plaintiff's recording device away from the misconduct of his fellow officers constituted a prior restraint on speech because it prevented Plaintiff from gathering the meaningful content of his choosing for his story on

a matters of great public concern – police brutality in Royse City, TX in violation of the Fourth Amendment to the Constitution for the United States of America, giving rise to Plaintiff's SECOND CLAIM FOR RELIEF.

40. Defendant Short's conduct repositioning Plaintiff's recording device away from the misconduct of his fellow officers deprived Plaintiff his property interests to gather and retain his personal and independent recording of the very genre of police brutality against which he was speaking out in violation of the Fourteenth Amendment to the Constitution for the United States of America, giving rise to Plaintiff's THIRD CLAIM FOR RELIEF.

41. Defendant Short's conduct repositioning Plaintiff's recording device away from the misconduct of his fellow officers constituted tampering with- and/or destruction of- material evidence because it prevented Plaintiff from gathering material evidence of police brutality to which he was being subjected interfering and/or precluding with Plaintiff's rights to seek Redress for Grievances through the Due Processes of Law in violation of both the First and Fourteenth Amendments to the Constitution for the United States of America, giving rise to Plaintiff's FOURTH CLAIM FOR RELIEF.

42. Defendant Short's conduct described herein was substantially motivated by a malicious desire to punish Plaintiff for his speech critical of government misconduct. The fear of being subjected to police brutality only to have one's deliberately gathered evidence thereof tampered with or destroyed would chill a person of ordinary firmness from engaging in similar protected speech conduct in violation of the First Amendment to the Constitution for the United States of America, giving rise to Plaintiff's FIFTH CLAIM FOR RELIEF.

43. Plaintiff has standing to assert these claims for relief for the numerous injuries he suffered, and continues to suffer, as a direct and proximal result of Defendant Short's unlawful actions 2018DEC18 to seize his recording equipment and tamper with the recording configuration and parameters.

44. Plaintiff brings these valid causes for action against Defendant Short in his personal, individual capacity pursuant to 42 U.S.C. § 1983 – deprivation of rights under color of law.
45. Plaintiff was a resident of Texas and a citizen of the United States at all times relevant to this complaint.
46. Defendant Short was a resident of Texas and a citizen of the United States at all times relevant to this complaint.
47. Plaintiff was engaged in protected free speech in a open public forum.
48. Plaintiff's conduct was lawful at all times during this incident.
49. It was obvious given the circumstances that the recording equipment belonged to Plaintiff.
50. Defendant Short absolutely knew the recording equipment belonged to Plaintiff.
51. It was obvious given the circumstances that the recording equipment was capturing a field of view focused upon and including Plaintiff.
52. Defendant Short absolutely knew Plaintiff was using the recording equipment to capture video/audio of events involving Plaintiff and his immediate vicinity.
53. Plaintiff seek relief for the following specifically enumerated claims:

**FIRST CLAIM FOR RELIEF  
42 U.S.C. § 1983 - FOURTH AMENDMENT  
UNLAWFUL SEIZURE – WARRANTLESS SEIZURE OF ACTIVE CAMERA  
(AGAINST DEFENDANT KEITH SHORT)**

54. Plaintiff incorporates herein by reference the statements, allegations and paragraphs made throughout this complaint as if each were set fourth fully verbatim here.

55. Defendant Short had no knowledge of any warrants or orders signed by any judicial officer authorizing any seizures of any specified camera, recording equipment belonging to Plaintiff.

56. Defendant Short knew, or certainly should have known, Plaintiff's recording actions did not give rise to any probable cause that any crime was being, had been, or would imminently likely be committed.

57. Defendant Short acted under full color of state law when he took physical control of Plaintiff's active recording equipment without any legitimate lawful authority to do so.

58. Plaintiff had a reasonable expectation his equipment would be secure and unmolested where he was not under arrest at the time of the seizure.

59. Defendant Short's conduct grasping, lifting, rotating, and repositioning Plaintiff's tripod and recording device away from the scene of obvious interest at a critical time during the incident constituted a seizure under the Fourth Amendment.

60. Defendant Short's seizure of Plaintiff's recording equipment was objectively unreasonable given the circumstances known to the officers at the time of the seizure.

61. Defendant Short's actions to deprive Plaintiff of his property interests were unlawful.

62. Defendant Short's engaged in his conduct to intentionally reposition Plaintiff's personal and independent recording of a police interaction involving the Plaintiff in a public place was maliciously intended to prevent Plaintiff his rights to adequately and vigorously petition and pursue redress of grievances.

63. Defendant Short acted wantonly, intentionally, maliciously, willfully, knowingly, recklessly and/or neglectfully and/or with reckless disregard of- and/or with deliberate indifference to- Plaintiff's rights secured by the Fourth Amendment to the Constitution for the United States when he unreasonably seized Plaintiff's recording equipment.

64. Plaintiff sustained injuries, damages and/or losses to liberty and/or property directly and indirectly as a proximal result of Defendant Short's unreasonable seizure of Plaintiff's active recording equipment.

65. Defendant Short's conduct violated clearly established rights secured for Plaintiff by the Fourth Amendment to the Constitution for the United States, which any reasonable officer in his position knew, or certainly should have known.

66. Plaintiff seeks relief for these injuries sustained when on 2018DEC18, Defendant Short, wantonly, intentionally, maliciously, knowingly, willfully, deliberately, wantonly, recklessly, and/or neglectfully and/or with reckless disregard of- and/or deliberate indifference to- Plaintiff's Constitutionally Protected Rights, acting under full color of state law, unlawfully seized and repositioned Plaintiff's property – his active recording equipment - which Plaintiff had full expectation of privacy and security, without any warrant, probable cause, or other legitimate lawful authority what so ever to do so, attempting to interfere with and/or prevent Plaintiff's active recording of police interaction in a public place.

67. In addition to compensatory, injunctive and declarative reliefs sought, and fees and costs sought, because Defendant Short acted with malicious motives, Plaintiff is entitled to punitive damages.

**SECOND CLAIM FOR RELIEF**  
**42 U.S.C. § 1983 –FIRST AMENDMENT**  
**FREE SPEECH / FREE PRESS; CENSORSHIP;**  
**PRIOR RESTRAINT: RECORDING INTERFERENCE**  
**(AGAINST DEFENDANT KEITH SHORT)**

68. Plaintiff incorporates herein by reference the statements, allegations and paragraphs made throughout this complaint as if each were set fourth fully verbatim here.

69. Plaintiff was engaged in protected free press, gathering content for a story on matters of great public concern – police misconduct, in an open public forum.

70. Defendant Short knew, or certainly should have known, that repositioning Plaintiff's recording device at a critical moment during an unlawful police encounter would prevent Plaintiff from capturing the interaction and censor his ability to publish the story in the manner he might see fit.

71. Defendant Short acted under full color of state law when he took physical control of Plaintiff's active recording equipment and repositioned the camera lens away from the intended field of view without any legitimate lawful authority to do so.

72. Plaintiff had a reasonable expectation his equipment would be secure and unmolested where he was not under arrest at the time of the seizure.

73. Defendant Short's conduct grasping, lifting, rotating, and repositioning Plaintiff's tripod and recording device away from the scene of obvious interest at a critical time during the incident preventing Plaintiff from gathering content he intended to publish and thus constituted censorship and a prior restraint on speech under the First Amendment.

74. Defendant Short's actions to deprive Plaintiff of his property and press interests were unlawful.

75. Defendant Short's engaged in his conduct to intentionally reposition Plaintiff's personal and independent recording of a police interaction involving the Plaintiff in a public place was maliciously intended to prevent Plaintiff his rights to gather content to publish about police misconduct.



76. Defendant Short acted wantonly, intentionally, maliciously, willfully, knowingly, recklessly and/or neglectfully and/or with reckless disregard of- and/or with deliberate indifference to- Plaintiff's rights secured by the First Amendment to the Constitution for the United States when he unlawfully censored Plaintiff's free press.

77. Plaintiff sustained injuries, damages and/or losses to liberty and/or property directly and indirectly as a proximal result of Defendant Short's unlawful prior restraint censorship of Plaintiff's story.

78. Defendant Short's conduct violated clearly established rights secured for Plaintiff by the First Amendment to the Constitution for the United States, which any reasonable officer in his position knew, or certainly should have known.

79. Plaintiff seeks relief for these injuries sustained when on 2018DEC18, Defendant Short, wantonly, intentionally, maliciously, knowingly, willfully, deliberately, wantonly, recklessly, and/or neglectfully and/or with reckless disregard of- and/or deliberate indifference to- Plaintiff's Constitutionally Protected Rights, acting under full color of state law, unlawfully repositioned Plaintiff's active recording equipment thus censoring Plaintiff's publication of his story on police misconduct and brutality.

80. In addition to compensatory, injunctive and declarative reliefs sought, and fees and costs sought, because Defendant Short acted with malicious motives, Plaintiff is entitled to punitive damages.

**THIRD CLAIM FOR RELIEF**  
**42 U.S.C. § 1983 –FOURTEENTH AMENDMENT VIOLATIONS**  
**DUE PROCESS: DEPRIVATION OF PROPERTY INTERESTS**  
**(AGAINST DEFENDANT KEITH SHORT)**

81. Plaintiff incorporates herein by reference the statements, allegations and paragraphs made throughout this complaint as if each were set fourth fully verbatim here.
82. Plaintiff was engaged in protected conduct recording himself and any potential interactions therewith in an open public forum.
83. Defendant Short knew, or certainly should have known, that repositioning Plaintiff's recording device at a critical moment during an unlawful police encounter would prevent Plaintiff from capturing the interaction and censor his ability to publish the story in the manner he might see fit.
84. Defendant Short acted under full color of state law when he took physical control of Plaintiff's active recording equipment and repositioned the camera lens away from the intended field of view without any legitimate lawful authority to do so.
85. Plaintiff had a reasonable expectation his equipment would be secure and unmolested to continue capturing the events withing the configured field of view where he was not under arrest at the time of the seizure.
86. Defendant Short's conduct grasping, lifting, rotating, and repositioning Plaintiff's tripod and recording device away from the scene of obvious interest, at a critical time during the incident, prevented Plaintiff from gathering content he intended to publish or use in litigation.
87. Defendant Short's actions to deprive Plaintiff of his property and press interests were unlawful.
88. Defendant Short's engaged in his conduct to intentionally reposition Plaintiff's personal and independent recording of a police interaction involving the Plaintiff in a public place was maliciously intended to prevent Plaintiff his property interests to gather content to publish about police misconduct or to use in litigation.

89. Defendant Short acted wantonly, intentionally, maliciously, willfully, knowingly, recklessly and/or neglectfully and/or with reckless disregard of- and/or with deliberate indifference to- Plaintiff's rights secured by the Fourteenth Amendment to the Constitution for the United States when he unlawfully deprived Plaintiff his property interests without the Due Processes of Law.

90. Plaintiff sustained injuries, damages and/or losses to liberty and/or property directly and indirectly as a proximal result of Defendant Short's unlawful tampering with Plaintiff's recording device thus destroying Plaintiff's content gathering.

91. Defendant Short's conduct violated clearly established rights secured for Plaintiff by the Fourteenth Amendment to the Constitution for the United States, which any reasonable officer in his position knew, or certainly should have known.

92. Plaintiff seeks relief for these injuries sustained when on 2018DEC18, Defendant Short, wantonly, intentionally, maliciously, knowingly, willfully, deliberately, wantonly, recklessly, and/or neglectfully and/or with reckless disregard of- and/or deliberate indifference to- Plaintiff's Constitutionally Protected Rights, acting under full color of state law, unlawfully repositioned Plaintiff's active recording equipment thus censoring Plaintiff's publication of his story on police misconduct and brutality.

93. In addition to compensatory, injunctive and declarative reliefs sought, and fees and costs sought, because Defendant Short acted with malicious motives, Plaintiff is entitled to punitive damages.

**FOURTH CLAIM FOR RELIEF**  
**42 U.S.C. § 1983 – FIRST AMENDMENT VIOLATION**  
**PETITION FOR REDRESS OF GRIEVANCES;**  
**42 U.S.C. § 1983 – FOURTEENTH AMENDMENT VIOLATIONS**  
**DUE PROCESS – PROPERTY DEPRIVATION, CONTENT DESTRUCTION**  
**(AGAINST DEFENDANT KEITH SHORT)**

94. Plaintiff incorporates herein by reference the statements, allegations and paragraphs made throughout this complaint as if each were set forth fully verbatim here.
95. Plaintiff was engaged in protected conduct recording himself and any potential interactions therewith in an open public forum.
96. Defendant Short knew, or certainly should have known, that repositioning Plaintiff's recording device at a critical moment during an unlawful police encounter would prevent Plaintiff from capturing the interaction and censor his ability to publish the story in the manner he might see fit.
97. Defendant Short acted under full color of state law when he took physical control of Plaintiff's active recording equipment and repositioned the camera lens away from the intended field of view without any legitimate lawful authority to do so.
98. Plaintiff had a reasonable expectation his equipment would be secure and unmolested to continue capturing the events within the configured field of view where he was not under arrest at the time of the seizure.
99. Defendant Short's conduct grasping, lifting, rotating, and repositioning Plaintiff's tripod and recording device away from the scene of obvious interest, at a critical time during the incident, prevented Plaintiff from gathering content he intended to publish or use in litigation.
100. Defendant Short's actions to deprive Plaintiff of his property and evidence interests were unlawful.
101. Defendant Short KNEW Plaintiff's recording activities had the potential to become material evidence against himself or his fellow officers should there be any allegations of misconduct raised by Plaintiff arising from the events unfolding.

102. Defendant Short CALCULATED that concealing any misconduct would be in the selfish best interests of himself and/or his fellow officers.

103. It was Defendant Short's intentionally designed malicious scheme to deprive Plaintiff possible evidence of police misconduct with the express intention of concealing the same.

104. Defendant Short's engaged in his conduct to intentionally reposition Plaintiff's personal and independent recording of a police interaction involving the Plaintiff in a public place was maliciously intended to prevent Plaintiff his property interests to gather content to publish about police misconduct or to use in litigation.

105. Defendant Short acted wantonly, intentionally, maliciously, willfully, knowingly, recklessly and/or neglectfully and/or with reckless disregard of- and/or with deliberate indifference to- Plaintiff's rights secured by the Fourteenth Amendment to the Constitution for the United States when he unlawfully deprived Plaintiff his property interests without the Due Processes of Law.

106. Defendant Short acted wantonly, intentionally, maliciously, willfully, knowingly, recklessly and/or neglectfully and/or with reckless disregard of- and/or with deliberate indifference to- Plaintiff's rights secured by the First Amendment to the Constitution for the United States when he unlawfully deprived Plaintiff the full ability to Petition the Government for Redress of Grievances by interfering with the collection of material evidence by tampering with Plaintiff's recording device.

107. Plaintiff sustained injuries, damages and/or losses to liberty and/or property directly and indirectly as a proximal result of Defendant Short's unlawful tampering with Plaintiff's recording device thus destroying Plaintiff's content gathering.

108. Defendant Short's conduct violated clearly established rights secured for Plaintiff by the Fourteenth Amendment to the Constitution for the United States, which any reasonable officer in his position knew, or certainly should have known.

109. Plaintiff seeks relief for these injuries sustained when on 2018DEC18, Defendant Short, wantonly, intentionally, maliciously, knowingly, willfully, deliberately, wantonly, recklessly, and/or neglectfully and/or with reckless disregard of- and/or deliberate indifference to- Plaintiff's Constitutionally Protected Rights, acting under full color of state law, unlawfully repositioned Plaintiff's active recording equipment thus censoring Plaintiff's publication of his story on police misconduct and brutality.

110. In addition to compensatory, injunctive and declarative reliefs sought, and fees and costs sought, because Defendant Short acted with malicious motives, Plaintiff is entitled to punitive damages.



**FIFTH CLAIM FOR RELIEF  
42 U.S.C. § 1983 –FIRST AMENDMENT VIOLATION  
RETALIATION FOR SPEECH  
(AGAINST DEFENDANT KEITH SHORT)**

111. Plaintiff incorporates herein by reference the statements, allegations and paragraphs made throughout this complaint as if each were set fourth fully verbatim here.

112. Plaintiff was engaged in protected political speech speaking out on matters of public concern in an open public forum.

113. Plaintiff was engaged in protected conduct recording himself and any potential interactions therewith in an open public forum.

114. Defendant Short acted under full color of state law when he took physical control of Plaintiff's active recording equipment and repositioned the camera lens away from the intended field of view without any legitimate lawful authority to do so.

115. Defendant Short KNEW Plaintiff's recording activities had the potential to become material evidence against himself or his fellow officers should there be any allegations of misconduct raised by Plaintiff arising from the events unfolding.

116. Defendant Short CALCULATED that concealing any misconduct would be in the selfish best interests of himself and/or his fellow officers.

117. Defendant Short's conduct to deprive Plaintiff of objective evidence to conceal police misconduct in response to- and/or in retaliation for- protected free speech and/or press activities by interfering with recordings thereof would chill a person of ordinary firmness from engaging in similar speech or press conduct.

118. Defendant Short engaged in his conduct to deprive Plaintiff his recording of the event was substantially motivated by malicious motives other than to seek justice for a person believed to have committed a crime; specifically, Short intended to punish Plaintiff for his content and/or viewpoint to which he objected and/or to conceal the evidence of unlawful "street justice" imposed by himself and/or his fellow officers.

119. Defendant Short acted wantonly, intentionally, maliciously, willfully, knowingly, recklessly and/or neglectfully and/or with reckless disregard of- and/or with deliberate indifference to- Plaintiff's rights secured by the Fourteenth Amendment to the Constitution for the United States when he unlawfully deprived Plaintiff his property interests without the Due Processes of Law.

120. Defendant Short acted wantonly, intentionally, maliciously, willfully, knowingly, recklessly and/or neglectfully and/or with reckless disregard of- and/or with deliberate indifference to- Plaintiff's rights secured by the First Amendment to the Constitution for the United States when he unlawfully deprived Plaintiff the full ability to Petition the Government for Redress of Grievances by interfering with the collection of material evidence by tampering with Plaintiff's recording device.

121. Plaintiff sustained injuries, damages and/or losses to liberty and/or property directly and indirectly as a proximal result of Defendant Short's unlawful tampering with Plaintiff's recording device thus destroying Plaintiff's content gathering.

122. Defendant Short's conduct violated clearly established rights secured for Plaintiff by the First Amendment to the Constitution for the United States, which any reasonable officer in his position knew, or certainly should have known.

123. Plaintiff seeks relief for these injuries sustained when on 2018DEC18, Defendant Short, wantonly, intentionally, maliciously, knowingly, willfully, deliberately, wantonly, recklessly, and/or neglectfully and/or with reckless disregard of- and/or deliberate indifference to- Plaintiff's Constitutionally Protected Rights, acting under full color of state law, unlawfully repositioned Plaintiff's active recording equipment thus censoring Plaintiff's publication of his story on police misconduct and brutality.

124. In addition to compensatory, injunctive and declarative reliefs sought, and fees and costs sought, because Defendant Short acted with malicious motives, Plaintiff is entitled to punitive damages.

## **E. REQUEST FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests this Court enter judgment in his favor and against Defendant, and grant:

- (a) Appropriate declaratory and other injunctive and/or equitable relief;
- (b) Compensatory and consequential damages, including damages for emotional distress, loss of reputation, humiliation, losses of enjoyment of life, and other pain and suffering on all claims allowed by law in an amount to be determined at trial;
- (c) All economic losses on claims allowed by law;
- (d) Punitive damages on all claims allowed by law and in an amount to be determined at trial;
- (e) Attorney's fees and the costs associated with this action, including but not limited to those associated with having to defend against the false criminal charges as well as consultation costs, paralegal costs, investigatory costs, deposition costs, witness fees, expert witness fees, on all claims allowed by law;
- (f) Pre- and post- judgment interest at the lawful rate; and
- (g) Any further relief this Court deems just and proper, and any other relief allowed by law.

**PLAINTIFF REQUESTS A TRIAL TO A JURY ON ALL ISSUES SO TRIABLE.**

Dated this 21st day of June, 2020.



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(Plaintiff Winston Wesley Noles' Original Signature)

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11452 County Road B  
Manzanola, Colorado 81058  
214-874-5605  
WinstonOttoNoles@gmail.com

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Pro-Se

**DEFENDANTS**

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

RECEIVED

JUN 29 2020

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- (For Diversity Cases Only)
- |   |                            |  |                            |                            |
|---|----------------------------|--|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

- |   |  |  |  |   |   |
|---|--|--|--|---|---|
| <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury<br><input type="checkbox"/> 362 Personal Injury - Medical Malpractice | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 365 Personal Injury - Product Liability<br><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 690 Other<br><input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Management Relations<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 751 Family and Medical Leave Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Employee Retirement Income Security Act | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 835 Patent - Abbreviated New Drug Application<br><input type="checkbox"/> 840 Trademark<br><input type="checkbox"/> 861 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g)) | <input type="checkbox"/> 375 False Claims Act<br><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))<br><input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 896 Arbitration<br><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision<br><input type="checkbox"/> 950 Constitutionality of State Statutes |
| <input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property  | <input checked="" type="checkbox"/> 440 Other Civil Rights<br><input type="checkbox"/> 441 Voting<br><input type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 445 Amer. w/Disabilities - Employment<br><input type="checkbox"/> 446 Amer. w/Disabilities - Other<br><input type="checkbox"/> 448 Education   | <b>Habeas Corpus:</b><br><input type="checkbox"/> 463 Alien Detainee<br><input type="checkbox"/> 510 Motions to Vacate Sentence<br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><b>Other:</b><br><input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition<br><input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement   | <input type="checkbox"/> 462 Naturalization Application<br><input type="checkbox"/> 465 Other Immigration Actions  | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609  |   |

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

42 USC Sec 1983 Obstruction of Recording

**VII. REQUESTED IN COMPLAINT:**
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

**FOR OFFICE USE ONLY**

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

PRESS FIRMLY TO SEAL

PRESS FIRMLY TO SEAL

PRIORITY MAIL  
FLAT RATE  
POSTAGE REQUIRED



FROM:

Winston Nolds  
11452 County Road B  
Manzanola, CO 81058

TO:

United States District Court  
1100 Commerce St  
Dallas, TX 75242-1457

JUN 23 2020

<b>PRIORITY MAIL</b>	<b>UNITED STATES POSTAL SERVICE</b>	<b>Retail</b>
	<b>US POSTAGE PAID</b> Origin: 80228 06/24/20 0723370058-22	
<b>\$7.75</b>		0 Lb 8.30 Oz <b>1006</b>
<b>PRIORITY MAIL 2-DAY</b>		
EXPECTED DELIVERY DAY: 06/27/20		
<b>SHIP TO:</b> 1100 COMMERCE ST DALLAS TX 75242-1001		
<b>USPS TRACKING® NUMBER</b> 		
<b>9505 5105 9274 0176 6495 13</b>		

- Date of delivery
- USPS TRACKING®
- Limited international destinations
- Limited international destinations
- Pick up available
- Order supplies
- When used international declaration label
- Domestic only

PS000011

\* Domestic only. \* For Domestic shipments, the maximum weight is 70 lbs. For international shipments, the maximum weight is 4 lbs.